

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

MAY - 4 2006

FILED  
CLERK'S OFFICEFILED  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA.

2006 MAY 23 PM 4:29

**A CERTIFIED TRUE COPY**

MAY 22 2006

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION****MDL-1657- IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS  
LIABILITY LITIGATION****MDL-1699- IN RE BEXTRA AND CELEBREX MARKETING, SALES PRACTICES  
AND PRODUCTS LIABILITY LITIGATION**EDLA  
SEC. L/3*Embry Wayne Hester, etc. v. Merck & Co., Inc., et al.*, M.D. Alabama, C.A. No. 2:06-242

06-2811

*Robert Madere, et al. v. Merck & Co., Inc., et al.*, D. Kansas, C.A. No. 2:06-2145

06-2812

*Beverly Wilhite, et al. v. Merck & Co., Inc., et al.*, N.D. Texas, C.A. No. 5:06-74

06-2813

*Maria Gomez v. Merck & Co., Inc., et al.*, S.D. Texas, C.A. No. 1:06-55

06-2814

**MDL-1657 CONDITIONAL TRANSFER ORDER (CTO-49)  
WITH SEPARATION, REMAND AND  
MDL-1699 CONDITIONAL TRANSFER ORDER (CTO-24)**

On February 16, 2005, the Panel transferred 138 civil actions to the United States District Court for the Eastern District of Louisiana for coordinated or consolidated pretrial proceedings in MDL-1657 pursuant to 28 U.S.C. § 1407. Since that time, 3,729 additional actions have been transferred to the Eastern District of Louisiana. With the consent of that court, all such actions have been assigned to the Honorable Eldon E. Fallon.

On September 6, 2005, the Panel transferred 30 civil actions to the United States District Court for the Northern District of California for coordinated or consolidated pretrial proceedings in MDL-1699 pursuant to 28 U.S.C. § 1407. Since that time, 651 additional actions have been transferred to the Northern District of California. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Breyer.

It appears that the actions on this conditional transfer order involve questions of fact which are common to: 1) the actions in MDL-1657 previously transferred to the Eastern District of Louisiana and assigned to Judge Fallon; and 2) the actions in MDL-1699 previously transferred to the Northern District of California and assigned to Judge Breyer. Each of these actions comprises two sets of claims, as follows: 1) claims relating to the prescription drug Vioxx that involve common questions of fact with the previously transferred MDL-1657 actions; and 2) claims relating to the prescription drugs Bextra and/or Celebrex that involve common questions of fact with the previously transferred MDL-1699 actions.

**Inasmuch as no objection is  
pending at this time, the  
stay is lifted.**

MAY 22 2006

CLERK'S OFFICE  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATIONCLERK'S OFFICE  
A TRUE COPY

MAY 30 2006

Deputy Clerk, U.S. District Court  
Eastern District of Louisiana  
New Orleans, LA

Fee \_\_\_\_\_  
 Process \_\_\_\_\_  
 DkId \_\_\_\_\_  
 CtRmDep \_\_\_\_\_  
 Doc. No. \_\_\_\_\_

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Eastern District of Louisiana for the reasons stated in the MDL-1657 transfer order of February 16, 2005, 360 F.Supp.2d 1352 (J.P.M.L. 2005), and, with the consent of that court, assigned to the Honorable Eldon E. Fallon.

The claims in each action relating to Bextra and/or Celebrex are hereby separated and remanded, under 28 U.S.C. § 1407(a), to their respective transferor courts.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), the resulting Bextra/Celebrex actions are transferred under 28 U.S.C. § 1407 to the Northern District of California for the reasons stated in the MDL-1699 transfer order of September 6, 2005, 391 F.Supp.2d 1377 (J.P.M.L. 2005), and, with the consent of that court, assigned to the Honorable Charles R. Breyer.

This order does not become effective until it is filed in the offices of i) the Clerk of the United States District Court for the Eastern District of Louisiana, and ii) the Clerk of the United States District Court for the Northern District of California. The transmittal of this order to said Clerks shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Michael J. Beck

Michael J. Beck  
Clerk of the Panel

**UNITED STATES OF AMERICA  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**CHAIRMAN:**

Judge Wm. Terrell Hodges  
United States District Court  
Middle District of Florida

**MEMBERS:**

Judge John F. Keenan  
United States District Court  
Southern District of New York

Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratil  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

**DIRECT REPLY TO:**

Michael J. Beck  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: [202] 502-2800  
Fax: [202] 502-2888

<http://www.jpml.uscourts.gov>

May 22, 2006

Loretta G. Whyte, Clerk  
C-151 U.S. Courthouse  
500 Poydras Street  
New Orleans, LA 70130-3367

Re: MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation

(See Attached CTO-49)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a conditional transfer order filed by the Panel in the above-captioned matter on May 4, 2006. As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

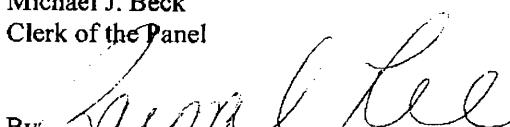
The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

**The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.**

A list of involved counsel is attached.

Very truly,

Michael J. Beck  
Clerk of the Panel

By   
Deputy Clerk

Attachment

cc: Transferee Judge: Judge Eldon E. Fallon  
 Transferor Judges: Judge Samuel R. Cummings, Judge John W. Lungstrum, Judge Hilda G. Tagle  
                     Judge Myron H. Thompson  
 Transferor Clerks: Debra P. Hackett, Karen S. Mitchell, Michael N. Milby, Ralph L. DeLoach